

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHY A. MARKS and DEPARTMENT OF DEFENSE,
FORT BRAGG COMMISSARY, Fort Bragg, NC

*Docket No. 99-309; Submitted on the Record;
Issued October 4, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has met her burden of proof in establishing that she sustained an injury to her wrist in the performance of duty.

On October 23, 1996 appellant, then a 33-year-old store clerk/checker, filed a notice of traumatic injury and claim for continuation of pay/compensation, Form CA-1, alleging that on October 19, 1996 she injured her wrist by picking something up at work. She did not stop work.

In a December 4, 1997 letter, the Office of Workers' Compensation Programs advised appellant that the information submitted in her claim was not sufficient to determine whether she was eligible for benefits under the Federal Employees' Compensation Act.¹ The Office advised appellant of the additional medical and factual evidence needed to support her claim. In particular, appellant was directed to provide a comprehensive medical report from her treating physician and all treatment notes from October 19, 1996.

By decision dated March 9, 1998, the Office denied appellant's claim. The Office found that appellant failed to submit evidence in response to the December 4, 1997 letter and, therefore, the record failed to demonstrate that she sustained an injury on October 19, 1996, as alleged.

By letter received March 27, 1998, appellant requested review of the written record. She submitted a notice of occupational disease and claim for compensation (Form CA-2), dated October 28, 1996 and a notice of recurrence of disability and claim for continuation of pay/compensation (Form CA-2a), dated June 27, 1997. Appellant also submitted medical reports, including an attending physician's report, Form CA-20, dated June 9, 1997 and numerous treatment notes dating from November 1, 1996 through March 18, 1998 from Dr. Malcolm Fleishman, an internist. These reports diagnose appellant's wrist condition as

¹ 5 U.S.C. §§ 8101-8103.

tendinitis and bilateral carpal tunnel syndrome. There is no mention in these reports of a specific incident occurring on October 19, 1996. The June 9, 1997 CA-20 checked a box “yes” indicating that appellant’s condition was employment related.

By decision dated July 27, 1998, the Office hearing representative affirmed the Office’s March 9, 1998 decision. The Office hearing representative noted deficiencies in the medical evidence and found that appellant did not meet her burden of proof in establishing that she sustained an injury in the performance of duty on October 19, 1996.²

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury to her wrist in the performance of duty on October 19, 1996.

An employee seeking benefits under the Federal Employees’ Compensation Act³ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitations period of the Act, that an injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁶

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed, and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷

In this case, appellant has been diagnosed with bilateral carpal tunnel syndrome. However, there is insufficient medical evidence to establish that she sustained an injury to her

² The Office hearing representative noted that appellant had filed an occupational disease claim for bilateral carpal tunnel syndrome, which was adjudicated under File No. A6-670540, and was accepted as work related.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Daniel J. Overfield*, 42 ECAB 718, 721 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Elaine Pendleton*, *supra* note 4.

⁷ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

wrist on October 19, 1996. The medical reports appellant submitted established the diagnosis of bilateral carpal tunnel syndrome, but they do not support appellant's contention that she injured her wrist on October 19, 1996. Additionally, form reports supporting causal relation with a checkmark are of limited probative value in the absence of any medical rationale explaining the basis of the opinion.⁸ As appellant has not submitted medical evidence establishing any specific injury on October 19, 1996, she has not met her burden of proof.

The decision of the Office of Workers' Compensation Programs dated July 27, 1998 is affirmed.

Dated, Washington, DC
October 4, 2000

David S. Gerson
Member

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member

⁸ *Alberta S. Williamson*, 47 ECAB 569 (1996).